U.S. Department of Labor

Office of the Assistant Secretary for
Congressional and Intergovernmental Affairs
Washington, D.C. 20210

JUL 29 2020

The Honorable Gregorio Kilili Camacho Sablan
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Sablan:

The U.S. Department of Labor (Department) received your letter requesting review of the eligibility of CW-1 foreign workers who are lawfully present in the Commonwealth of the Northern Mariana Islands (CNMI) for Unemployment Compensation (UC) benefits under the temporary programs of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.

Sections 2102 and 2104 of the CARES Act, respectively, created new temporary programs, Pandemic Unemployment Assistance (PUA) and Federal Pandemic Unemployment Compensation (FPUC), which provide temporary UC benefits to mitigate the economic effects of the COVID-19 pandemic. These programs are funded entirely by the U.S. government and are administered through a voluntary agreement between the CNMI and the Department.

PUA and FPUC both are paid entirely from federal funds, and, therefore, each is a "Federal public benefit," as defined in 8 U.S.C. § 1611(c). Eligibility of aliens, such as CW-1 workers, for federal public benefits, including PUA and FPUC, is governed by the Public Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). PRWORA codified provisions applicable to federal public benefits in 8 U.S.C. § 1611 *et seq*. Section 1611(a) of 8 U.S.C. provides that, with specified exceptions, only "qualified aliens" are eligible to receive federal public benefits. The term "qualified alien" under PRWORA is defined in 8 U.S.C. § 1641(b) and (c) to include—

- An alien who is lawfully admitted for permanent residence;
- An alien who has been granted asylum;
- A lawfully admitted refugee;
- An alien paroled into the United States;
- An alien whose deportation is being withheld under federal laws;[1]
- An alien who is granted conditional entry due to being the spouse or children of an alien lawfully admitted for permanent residence;

[1] Section 243(h) of INA 8 U.S.C §1253 (as in effect immediately before the effective date of Section 307 of Division C of Public Law 104-208 or Section 241(b)(3) of INA 8 U.S.C. § 1231(b)(3) (as amended by Section 305(a) of Division C of Public Law 104-208)).

- An alien who is a Cuban or Haitian entrant as defined in federal law regarding refugees;[2] or
- An alien who is a battered alien meeting the requirements of 8 U.S.C. § 1641(c).

A CW-1 worker may be permitted to enter the CNMI provided certain conditions are met, and such a worker "shall be treated as a nonimmigrant described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15))." 48 U.S.C. § 1806(d)(1). Therefore, the CW-1 worker is not an alien "lawfully admitted for permanent residence," and unless the alien falls under another category of qualified aliens they would not meet the definition of "qualified alien" under PRWORA. As a result, CW-1 workers are not eligible for UC benefits under federally funded programs under the CARES Act on the basis of CW-1 status alone.

If you have additional questions, please contact the Department's Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,

Joe Wheeler
Deputy Assistant Secretary

[2] As defined in Section 501(e) of the Refugee Education Assistance Act of 1980.